

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE**

THE HYDE MUHLER CORPORATION, )  
Plaintiff, )  
                                    )  
v.                                 )                                  **3:04-cv-64**  
                                    )  
JOE NATHAN WARD,              )  
BASKETBALL MINISTRY, INC.,    )  
BASKETBALL MINISTRIES        )  
INTERNATIONAL, INC.,          )  
Defendants.                    )

**MEMORANDUM AND ORDER**

Plaintiff has moved the court to enter an order requiring Joe Nathan Ward to appear and show cause why he should not be held in contempt for failure to obey a deposition subpoena [Doc. 34]. Plaintiff also seeks for the court to direct the United States Marshal's office to take Mr. Ward into custody for the purpose of appearing to give his deposition. *Id.*

A judgment has been entered on behalf of the plaintiff for \$250,000. Plaintiff has requested detailed financial information from Mr. Ward for the legitimate purpose of enforcing the judgment. Fed. R. Civ. P. 69 provides in part as follows:

(a) **IN GENERAL** ... In aid of the judgment of execution, the judgment creditor ... may obtain discovery from any person, including the judgment debtor, in the manner provided in these rules or in the manner provided by the practice of the state in which the district court is held.

Fed. R. Civ. P. 69. Mr. Ward, however, has so far failed to cooperate in plaintiff's discovery efforts.

At this time, the motion for a show cause order will be **DENIED**. However, it is hereby **ORDERED** that the U.S. Marshals Service effect personal service on Mr. Ward of this memorandum and order and a subpoena directing him to appear on **Friday, October 7, 2005, at 10:00 a.m. at Courtroom 3-C, Third Floor, Howard H. Baker, Jr. United States Courthouse, Knoxville, Tennessee**, to give his deposition. Mr. Ward is further **ORDERED** at this time to pay any reasonable expenses incurred by plaintiff in its attempts to obtain his presence at a deposition. See Fed. R. Civ. P. 37(b)(2).

Fed. R. Civ. P. 45(e) relates the following:

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued....

Accordingly, should Mr. Ward not present himself on the above date, he will be deemed in contempt of this court. Fed. R. Civ. P. 45(f).

**IT IS SO ORDERED.**

**ENTER:**

s/Thomas W. Phillips  
**UNITED STATES DISTRICT JUDGE**